

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

JUDGE BUCK

MAGISTRATE JUDGE MASON

SURFACE SHIELDS, INC.

v.

Plaintiff,

02C 7228  
DOCKETED

OCT 10 2002

Jury Trial Demanded

Defendant.

POLY-TAK PROTECTION SYSTEMS, INC.

COMPLAINT

Plaintiff, SURFACE SHIELDS, INC. ("Surface Shields"), by and through its attorneys, THE COLLINS LAW FIRM, P.C., of counsel, for its Complaint against Defendant, POLY-TAK PROTECTION SYSTEMS, INC. ("Poly-Tak"), states and alleges as follows:

NATURE OF THE ACTION

To eliminate Surface Shields from the marketplace and gain control over a substantial percentage of the adhesive film industry, the Defendant directed and controlled a campaign of commercial espionage by searching through Surface Shields' garbage and stealing critically important customer information. Based on information learned from the espionage, the Defendant maliciously interfered with Surface Shields' customer relationships by deliberately driving down the profit that Surface Shields could earn from its long-standing and repeat customers. Poly-Tak also used the stolen information to interfere with Surface Shields' prospective customers. Surface Shields brings this action to seek redress for the Defendant's illegal actions.

**PARTIES**

1. Plaintiff Surface Shields is an Illinois corporation, having its principal place of business in Tinley Park, Illinois. Surface Shields is a citizen of the State of Illinois. Surface Shields, *inter alia*, is a national supplier of adhesive films for various industrial purposes.

2. Defendant Poly-Tak is a California corporation, having its principal place of business at 5731 McFadden Avenue, Huntington Beach, California, 92649. Poly-Tak is therefore a citizen of the State of California. Poly-Tak is a national supplier of temporary adhesive films to the construction, recreational vehicle, building, marine, and retail markets.

**JURISDICTION and VENUE**

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332 (a) (1), based upon the complete diversity of citizenship of the parties and the amount in controversy far exceeding the jurisdictional minimum of \$75,000.

4. Venue is proper in this District, *inter alia*, pursuant to 28 U.S.C. § 1391, because this case arises out of actions which occurred, at least in part, within this Judicial District. These include, *inter alia*:

(a) Defendant has interfered with the business relationships of an Illinois corporation located within this Judicial District.

(b) Defendant has employed the use of a resident of this Judicial District to engage in commercial espionage to find out information about Surface Shields' customers and pricing. The commercial espionage, which took place in this Judicial District, provided the vehicle by which Defendant has been able to adversely impact the profitability of Surface Shields, unfairly compete against Surface Shields, and interfere with Surface Shields' relationships.

**GENERAL ALLEGATIONS OF FACT**

5. Surface Shields and Poly-Tak are competitors in the adhesive films industry. Combined, they supply approximately 50% of the adhesive film marketplace.

6. Surface Shields has spent approximately 10 years and millions of dollars establishing and solidifying its brand identity within the industry.

7. Beginning in approximately 2001, and potentially earlier, Poly-Tak began using a resident of this Judicial District, (hereafter, the "Spy") to engage in commercial espionage in an effort to destroy and interfere with Surface Shields' business relationships with the ultimate goal of putting Surface Shields out of business.

8. Poly-Tak directed the Spy to search and steal documents located in a dumpster at Surface Shields' corporate headquarters.

9. On approximately a weekly basis, the Spy would search Surface Shields' dumpster and haul away the contents to a warehouse located within this Judicial District.

10. From the warehouse, the Spy would mail the stolen contents to Poly-Tak in California.

11. These documents contained information that Surface Shields relied on for its business including, *inter alia*, customer and pricing information, prospective customer quotations, as well as raw material acquisition costs.

12. Poly-Tak relied on the stolen information for the purpose of interfering with Surface Shields' existing and prospective customer relationships and to drive Surface Shields out of business. Poly-Tak used the stolen information in at least two ways:

(a) With the intent to eliminate Surface Shields as a competitor, Poly-Tak drove down Surface Shields' profit. After unsuccessful attempts to earn business from Surface

Shields' customers, Poly-Tak would still offer pricing known to be at or below Surface Shields' acquisition costs. Such costs were obtained by espionage activities. Poly-Tak undertook these actions for the improper purpose of destroying Surface Shields.

(b) Poly-Tak relied on the stolen documents to devastate the competitive pricing that Surface Shields had with its existing customers. As a result, Surface Shields lost several large customers.

**COUNT I**

**TORTIOUS INTERFERENCE WITH  
PROSPECTIVE ECONOMIC ADVANTAGE/ UNFAIR COMPETITION**

13. Surface Shields repeats, realleges and incorporates by reference Paragraphs 1-12, as if fully set forth herein.

14. Surface Shields had a reasonable expectation of continuing valid and profitable business relationships with the customers that were the subject of the misconduct alleged in this Complaint. Indeed, Surface Shields had received regular, continuous, on-going, and profitable orders from these customers in the past. Surface Shields regularly enjoyed on-going business transactions at a predictable and profitable rate.

15. Poly-Tak was aware of Surface Shields' expectancy of entering into and continuing valid business relationships with its customer by its commercial espionage activities and also by virtue of its knowledge of the adhesive film industry.

16. Notwithstanding Poly-Tak's knowledge of Surface Shields' ongoing customer relationships, Poly-Tak purposefully, maliciously and unlawfully interfered with these relationships to prevent Surface Shields' legitimate expectancy from ripening into ongoing, valid, and profitable business relationships. Poly-Tak's interference was done for the improper

and spiteful purpose of harming Surface Shields and driving it out of business, rather than for a legitimate competitive purpose. Furthermore, Poly-Tak interfered with Surface Shields' prospective economic advantage by intentionally driving down Surface Shields' profit by substantially underbidding Surface Shields even after Poly-Tak knew it was unable to obtain such business. Poly-Tak's actions were wrongful in that they were done for the spiteful purpose of driving Surface Shields from the marketplace and interfering with free and open competition.

17. Surface Shields has been damaged from such interference, *inter alia*, by losing profit (or a portion of profit) that would have been earned on sales had Poly-Tak not interfered. The amount of such sales known presently greatly exceeds \$2,000,000. The amount of damages sustained to date, as well as future damages, will be proven at trial. That amount greatly exceeds the jurisdictional requirement.

**Relief Requested**

WHEREFORE, Plaintiff Surface Shields requests that this Court enter judgment in its favor and against Defendant Poly-Tak, as follows:

- (a) Award Surface Shields its monetary damages, including future profits, in an amount to be proven at trial;
- (b) Award Surface Shields punitive damages to the extent permitted by law; and
- (c) Award Surface Shields its costs of suit and such other relief as this Court deems just and proper.

**Jury Trial Demanded**

Plaintiff Surface Shields request trial by jury on all issues so triable.

Dated: October 9, 2002

Respectfully submitted,  
SURFACE SHIELDS, INC.

By:

  
One of its attorneys

Edward J. Manzke  
David J. Fish  
THE COLLINS LAW FIRM, P.C.  
1770 North Park Street, Suite 200  
Naperville, Illinois 60563  
(630) 527-1595

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I (a) PLAINTIFFS

JUDGE BUCKLO

Surface Shields, Inc.

## DEFENDANTS

DOCKETED  
OCT 10 2002

Poly-Tak Protection Systems Inc.

02C 7228

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF  
(EXCEPT IN U.S. PLAINTIFF CASES)

MAGISTRATE JUDGE MASON

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT

(IN U.S. PLAINTIFF CASES ONLY)

IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

The Collins Law Firm, P.C.  
200 N. Park Street, Suite 200  
Naperville, IL 60563

ATTORNEYS (IF KNOWN)

## II. BASIS OF JURISDICTION

(PLACE AN X IN ONE BOX ONLY)

1 U.S. Government Plaintiff  3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant  4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

Citizen of This State	<input checked="" type="checkbox"/> 1 <input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4 <input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2 <input checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6

## IV. CAUSE OF ACTION

(cite the U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Intentional Interference of Economic Expectancy

## V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 28 USC 158	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 450 Commerce/ICC Rates/etc	
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 460 Deparation	
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 810 Selective Service	
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 850 Securities/Commodities/Exchange	
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 700 Other Fraud	<input type="checkbox"/> 875 Customer Challenge	
<input type="checkbox"/> 180 Other Contract		<input type="checkbox"/> 370 Truth in Lending	<input type="checkbox"/> 12 USC 3410	
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 891 Agricultural Acts	
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	FEDERAL TAX SUITS	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 610 Motions to Vacate Sentence	<input type="checkbox"/> 861 HIA (1972)	
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 620 Habeas Corpus	<input type="checkbox"/> 862 Black Lung (923)	
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 630 General	<input type="checkbox"/> 863 DWCA/DWV (405(g))	
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 635 Death Penalty	<input type="checkbox"/> 864 9510 Title XVI	
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 640 Mandamus & Other	<input type="checkbox"/> 865 RSI (405(g))	
<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 650 Civil Rights		

## VI. ORIGIN

(PLACE AN X IN ONE BOX ONLY)

XX1 Original Proceeding

 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 another district (specify) 6 Multidistrict LitigationAppeal to District  
 7 Judge from Magistrate Judgment

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION  
 UNDER F.R.C.P. 23

DEMAND \$ 75,000.00

Check YES only if demanded in complaint:  
JURY DEMAND:  YES  NOVIII. REMARKS In response to  is not a refiling of a previously dismissed action  
General Rule 2.21D(2) this case  is a refiling of case number \_\_\_\_\_ of Judge \_\_\_\_\_

DATE 10/9/02

SIGNATURE OF ATTORNEY OF RECORD

UNITED STATES DISTRICT COURT

D.J.M.

17

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS

Eastern Division

JUDGE BUCKLO

MAGISTRATE JUDGE MASSA

In the Matter of

Surface Shields, Inc.

v

Poly-Tak Protection Systems, Inc.

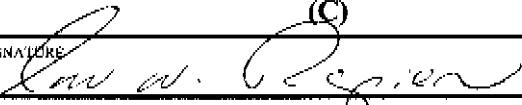
APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR

Surface Shields, Inc.

02C 7228

Case Number:

DOCKETED  
OCT 10 2002

(A)		(B)	
SIGNATURE 		SIGNATURE 	
NAME Edward J. Manzke		NAME David J. Fish	
FIRM The Collins Law Firm		FIRM The Collins Law Firm	
STREET ADDRESS 1770 N. Park Street, Suite 200		STREET ADDRESS	
CITY/STATE/ZIP Naperville, IL 60563		CITY/STATE/ZIP	
TELEPHONE NUMBER (630) 527-1595		TELEPHONE NUMBER	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 06209413		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6269745	
MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>	
(C)		(D)	
SIGNATURE 		SIGNATURE	
NAME Aaron W. Rapier		NAME	
FIRM The Collins Law Firm		FIRM	
STREET ADDRESS		STREET ADDRESS	
CITY/STATE/ZIP		CITY/STATE/ZIP	
TELEPHONE NUMBER		TELEPHONE NUMBER	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6270472		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)	
MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input type="checkbox"/>	
TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input type="checkbox"/>	
DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>	

1-3